



WISCONSIN DEPARTMENT OF CORRECTIONS

Governor Tony Evers / Secretary Kevin A. Carr

GUIDANCE DOCUMENT CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections §227.10 and §227.11 of the Wisconsin Statutes.

I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated.

I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

LANCE WIORSMA

Name of Individual Certifying this Document/Proposed Document

ADMINISTRATOR, DIVISION OF COMMUNITY CORRECTIONS

Title


[Handwritten Signature]

Signature

6/25/19

Date Signed

Department of Corrections – Wisconsin
Office of the Secretary
Wis. Stat. § 227.112(6)
DOC-2910 (6/2019)

 <p style="text-align: center;">WISCONSIN DEPARTMENT OF CORRECTIONS Division of Community Corrections DOC-1356 (Rev.) Administrative Directive # 13-01</p>	Effective Date 5/1/2013	PAGE NUMBER 1 of 5
	MANUAL REFERENCE	<input checked="" type="checkbox"/> New <input type="checkbox"/> Revision
	ORIGINATED BY ADMINISTRATOR'S OFFICE Denise Symdon <i>D. Symdon 2/12/13</i>	
DISSEMINATION <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Supervisory Staff Only		PRIORITY <input checked="" type="checkbox"/> Policy/Directive <input type="checkbox"/> Information Discuss at Staff Meeting Read/Route/Post
SUBJECT: Nondiscrimination and Reasonable Accommodation for Offenders on Community Supervision		

Reference: Americans with Disability Act of 1990, as amended, 45 USC Ch.126, Subch. II, Public Services ADA Amendments Act of 2008 (P.L. 110-325)

Code of Federal Regulations, 28 CFR Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services

Executive Directive # 17: Nondiscrimination and Reasonable Accommodation for Inmates, Offenders, Juveniles, and Members of the Public Who are Qualified Individuals with Disabilities.
 Effective date: June 1, 2012

Policy Statement:

The Division of Community Corrections is committed to assuring fair and equitable treatment of individuals with disabilities who are under our supervision and who seek access to our programs, services and activities. Under the Americans with Disabilities Act, no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, or be denied the benefits of the services, programs, or activities of the Division of Community Corrections, or be subjected to discrimination. (Code of Federal Regulations, 28 CFR § 35.130). It is the policy of DCC that all programs, services and activities shall be readily accessible to qualified individuals with disabilities. DCC requires its employees to follow policies and procedures outlined in this administrative directive to make the division's programs, services and activities accessible to individuals with disabilities. Making reasonable modifications in its policies, practices, or procedures when appropriate, is necessary in order to avoid discrimination on the basis of disability, unless to do so would fundamentally alter the nature of the program, service or activity or create an undue administrative burden or direct threat.

DCC may seek alternative means of achieving accessibility for qualified individuals with disabilities. In order to ensure accessibility, such means may include the provision of auxiliary aids or services to offenders with disabilities who are approaching their release date or who are under community supervision.

When an auxiliary aid or service is required, DCC will provide an opportunity for the offender with a disability to request the auxiliary aid or services of their choice. DCC will consider this request unless it can be demonstrated that another equally effective means is available; that the use of the

requested aid or service would result in a fundamental alteration in the service, program or activity; or it would place an undue financial administrative burden on the agency.

Definitions:

“ADA Coordinator” means a person who has been designated to receive and process requests for accommodations from offenders or members of the public.

“American with Disabilities Act” or ADA means the federal law (42 USC Ch. 126, Equal Opportunity For Individuals with Disabilities) which prohibits disability discrimination and requires accommodations in employment, public and private transportation, public accommodations and telecommunications settings.

“Auxiliary Aids and Services” may include but are not limited to: a) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments; b) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments; c) acquisition or modification of equipment or devices; and d) other similar services and actions. Examples of auxiliary aids and services include sign language interpreters, TDD or TTY machines, written transcripts of classes, and large-print or Braille materials.

“Direct Threat” means a significant risk to the health and safety of others that cannot be eliminated or reduced to safe levels through the provision of auxiliary aids, services or the reasonable modification of policies or practices. The determination of the existence of a direct threat must be based on objective factual evidence not stereotypes or misconceptions about a disability.

“Disability” means, with respect to an individual, a.) A physical or mental impairment that substantially limits one or more of the major life activities of such individuals; b.) A verified record of such an impairment; or, c.) Being regarded as having such impairment. If an individual meets any one of these criteria, he or she is considered to be an individual with a disability for purposes of coverage under the ADA.

“Offender” means any person who is on community supervision as a probationer, parolee, or person on extended supervision.

“Physical or Mental Impairment” means:

- 1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine, or;
- (2) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (28 C.F.R. § 35.104)

"Qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.(28 C.F.R. § 35.104)

"Reasonable Accommodation" includes but is not limited to, adjustments, adaptations, or modifications to facilities or operations within a facility, or use of modified or auxiliary aids that enable a qualified individual with a disability, equal access, participation, and benefits of programs, services, and activities.

Procedure:

DCC shall ensure that an offender with a disability is able to participate in the programs, services or activities of daily living with the same opportunity as other offenders. This can be accomplished by non-structural changes such as relocating a program, service or activity to an accessible area; use of "auxiliary aids and services; or by modification of its policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability.

Offenders will be notified of their right to reasonable accommodations and the procedure for requesting an accommodation under the ADA. Agents will communicate this notice during DCC Offender Intake and shall document that the notice has been provided on the DCC Offender Intake Checklist, DOC-2625. The notice will include a statement explaining what ADA is, the location to obtain accommodation request forms, instructions for submitting an accommodation request, and ADA Coordinator contact information. This information will also be included in the offender handbook, POC-0004, which is provided to offenders at Intake.

If an agent becomes aware of a perceived disability where an offender would benefit from an accommodation, the agent will discuss this need with the offender. It is then the offender's responsibility to complete the reasonable accommodation form described below.

During the Reentry Planning process when offenders with disabilities are preparing for release to the community, the institution social worker and agent shall verbally discuss the offender's need for a reasonable accommodation. The offender may document on the DOC 745: Release Plan Information, any health issues that need to be addressed, and /or identify any medical appliances or auxiliary aids that may need to be considered in release planning. The DOC 745 will be e-mailed to the agent by the institution social worker and also filed in the Release Virtual Folder. The offender may also choose to complete the DOC 4051, DCC ADA Reasonable Accommodation Request while still in prison and have it sent to the agent to begin the release planning. The institution social worker may assist the offender in obtaining the form, providing medical and mental health documentation from the prison if applicable and available, and sending these documents to the agent.

Offenders on community supervision are required to complete the DOC 4051 to request a reasonable accommodation. If more than one reasonable accommodation is needed, then a separate form for each request shall be completed in order to track the approval or denial status of each request. The offender shall describe the modification/accommodation requested and the reason for the accommodation. After signing and dating the request, the offender shall submit it to his/her agent for

review and action. If the ADA Reasonable Accommodation form is incomplete the agent will return the form and request the missing/incomplete information from the offender.

The agent shall investigate the request, review any medical documentation provided and interview the offender, if needed. If necessary to complete the investigation, the agent may request Department of Corrections' mental health and medical records with the individual's permission. The agent may also assist the individual to obtain the individual's treatment records in the community in order to aid in the investigation. Although the individual remains primarily responsible for providing records to document his or her need for an accommodation, the agent should make every effort to assist the individual when he or she is incapable of providing such records due to his or her disability or indigency. With the individual's permission, the agent may consult with the individual's mental health and medical providers to aid decision-making regarding proper accommodations.

The agent shall document the result of the investigation and either approve the request, describing the accommodation to be provided; or deny the request with a rationale for the denial. The investigation of all requests for reasonable accommodation shall be reviewed and processed as soon as practicable, and when possible within 15 working days. Copies of the written decision shall be distributed to the offender, field supervisor, regional chief and DCC ADA Coordinator. If approved, the reasonable accommodation may be recorded in the offender case plan if it affects the ability to complete objectives and activities of the plan.

Appeal:

If the ADA reasonable accommodation request is denied, the offender has the right to appeal the denial using the DOC 4052, Offender Request for Administrative Review of a Reasonable Modification/Accommodation Request. An appeal shall be submitted within 5 working days of receipt of the decision to the Field Supervisor, with a copy to the DCC ADA Coordinator.

The supervisor shall investigate within 10 working days of receipt of the complaint obtaining information from the agent and then interviewing the offender. Within 5 working days after the supervisor's investigation is complete, the supervisor shall issue a written decision stating the reasons for the decision. If the decision is to overturn the agent's decision and grant the accommodation, then the written decision shall be issued with copies to the agent, the offender and the ADA Coordinator. If the decision is to deny the complaint, prior to issuing the decision, the field supervisor is to consult the Regional Chief and the DCC ADA Coordinator to assure the denial decision is in compliance ADA law and division policy.

Offenders under community supervision have the right to appeal a denial by the field supervisor, of a reasonable accommodation to the DCC ADA Coordinator who shall discuss these appeals with the DOC ADA Advisory Committee for action. The appeal should include copies of the Request for Reasonable Modification/Accommodation, DOC 4051; the Offender Request for Administrative Review of the Reasonable Modification/Accommodation Request, DOC 4052; the supervisor's written decision; and any medical documentation. Appeals may be sent to the DCC ADA Coordinator at: Wisconsin Department of Corrections, Attn: DCC ADA Coordinator, 3099 E. Washington Ave, Madison, WI 53707-7925. A written decision shall be issued within 10 days of receipt of the appeal.

The written decision shall be provided to the offender requesting the accommodation(s), the agent and field supervisor.

If the DCC ADA Coordinator denies the appeal, the offender always retains the option to appeal the denial of an ADA accommodation to the DCC Administrator for a final review and decision using all relevant written information, including the offender's appeal and previous decisions issued by the agent, supervisor and DCC ADA Coordinator. The Administrator shall issue a written decision stating the reasons for the decision within 10 working days of receipt of the appeal. The offender, agent, supervisor, and ADA Coordinator shall receive copies of the Administrator's decision. The Administrator's decision regarding the appeal shall be final.

Notice

ADA Reasonable Accommodation Request form, DOC 4051, instructions as to how to complete the form, and Offender Request for Administrative Review of a Reasonable Modification/Accommodation Request, DOC 4052 shall be made available to offenders in the waiting areas of all DCC field offices. A poster providing notice shall be placed in the waiting area documenting that DCC field offices follow ADA requirements for people with disabilities and referencing the form to request a reasonable accommodation. The same information shall be documented in the DCC Offender Handbook, POC-0004.

Record Keeping:

The agent shall retain a copy of all DOC 4051 and DOC 4052 submissions in the offender's file. Additionally, the region shall maintain a log of all offender requests for reasonable accommodation, documenting the following information: date of the request, offender name, agent name, description of accommodation requested, and approval or denial decision of the agent. If approved, the type of accommodation provided shall be documented. All appeals shall also be logged, documenting denial or approval of an accommodation request.

On a quarterly basis, each region shall provide central office with the log tracking of all ADA reasonable accommodations received and action taken, including appeals. Quarterly reports are due to DCC Administrator's Office in January, April, July and October of each year.

DCC shall maintain a record of all reasonable accommodations granted as well as those which have been denied and the reason for denial. This will be reviewed by the Administrator and the DOC ADA Advisory Committee.